



Docket No.: 202593US0

1745

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

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ATTORNEYS AT LAW

RE: Application Serial No.: 09/784,057

Applicants: Michio ASUKABE, et al.

Filing Date: February 16, 2001

For: GRAFTED POLYMER ELECTROLYTE
MEMBRANE, METHOD OF PRODUCING A
GRAFTED POLYMER ELECTROLYTE
MEMBRANE, AND FUEL CELL COMPRISING THE
SAME

Group Art Unit: 1745

Examiner: Weiner, Laura S.

SIR:

Attached hereto for filing are the following papers:

Response to Restriction Requirement

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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DOCKET NO.: 202593US0



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:

Michio ASUKABE, et al. : GROUP ART UNIT: 1745

SERIAL NO.: 09/784,057 :

FILED: FEBRUARY 16, 2001 : EXAMINER: WEINER

FOR: GRAFTED POLYMER ELECTROLYTE MEMBRANE, METHOD OF PRODUCING A GRAFTED POLYMER ELECTROLYTE MEMBRANE, AND FUEL CELL COMPRISING THE SAME

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RESPONSE TO RESTRICTION REQUIREMENT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Responsive to the Official Action dated November 1, 2002, Applicants elect, with traverse, Group II, Claims 13-20, for further prosecution.

REMARKS

The Office has required restriction in the present application as follows:

Group I: Claims 1-12 and 21-23, drawn to an electrolyte membrane and a fuel cell comprising the membrane; and

Group II: Claims 13-20, drawn to a method of producing an electrolyte membrane.

Applicants elect, with traverse, Group II, Claims 13-20, for further prosecution.

In regard to Groups I and II, the Office has characterized the relationship between these two groups as "process of making and product made." Citing MPEP §806.05(f), the Office suggests the product as claimed can be made by another and materially different process such as "by chemical pretreatment with hydrogen peroxide or ozone instead of plasma

treating." However, there is no evidence of record to show that the claimed products could be made as the Office has alleged. If, in fact, the claimed product can be made "by chemical pretreatment with hydrogen peroxide or ozone instead of plasma treating," the Office has failed to show that the alleged process is materially different from the claimed process. Moreover, the product of Group I *is* made by the process of Group II. Accordingly, Applicants respectfully submit that the Restriction Requirement is unsustainable, and it should therefore be withdrawn.

Applicants respectfully traverse on the additional grounds that the Office has not shown that a burden exists in searching the entire application.

Further, MPEP §803 states as follows:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.

Applicants submit that a search of all claims would not constitute a serious burden on the Office.

For the reasons set forth above, Applicants contend that the Restriction Requirement is improper and should be withdrawn.

Applicants further submit that this application is now in condition for examination on the merits and an early notification to that effect is earnestly solicited.

Respectfully submitted,

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